

3
 ARTICLE ATTACHED
 ON PAGE **A18**

NEW YORK TIMES
 21 May 1986

U.S. Aides Said to Have Discussed Prosecuting News Organizations

By **STEPHEN ENGELBERG**

Special to The New York Times

J
 WASHINGTON, May 20 — In the past 25 years, Government officials have discussed numerous times whether to prosecute news organizations for disclosing highly sensitive material, according to former officials.

But they have always been dissuaded by various political pressures or by fears that a court case would confirm the accuracy of a report and bring to light even more damaging information, the officials say.

A
 With his remarks in recent weeks, William J. Casey, the Director of Central Intelligence, has begun publicly pushing for a new, more confrontational approach to the publication of classified Government information.

Mr. Casey has cited the mounting attacks against Americans by terrorists as a justification for bringing prosecutions under a 1950 law that bars publication of classified communications intelligence. No news organization has ever been prosecuted under this statute.

On Monday, Mr. Casey announced that he had asked the Justice Department to consider prosecuting the National Broadcasting Company for its report on a secret intelligence gathering operation by the National Security Agency. The report on the "Today" show Monday described "Ivy Bells," a program the Government contends was compromised by Ronald W. Pelton, a former employee of the National Security Agency who is now on trial on espionage charges. The network said the effort involved eavesdropping by American submarines in Soviet harbors.

'All Done Very Quietly'

J
 Howard Simons, the curator of the Nieman Foundation for journalists at Harvard, said that newspapers' decisions about whether to publish national security articles were generally made after private consultations with Government officials. Mr. Simons was managing editor of The Washington Post from 1971 to 1984.

"It was all done very quietly," said Mr. Simons. "They would call you over to the C.I.A. or the White House. They wouldn't ask you not to publish. They would outline what damage would be caused by a story. Then you went back and made your own decision."

There have been a number of incidents in which publications have published information viewed as highly sensitive by the Government. These included reports in the 1970's of an effort by the United States to raise a sunken Soviet submarine from the ocean floor as well as disclosures about a host of intelligence gathering activities.

In 1975, for instance, The New York Times printed an article about "Holystone," a program in which American submarines eavesdropped on the Soviet Union.

The Times article described several mishaps that occurred when the submarines collided with Soviet vessels and it detailed some of the intelligence successes in the program. These included tapping into undersea cables through which the Soviet Union was sending military communications.

'Different Climate'

Former Government officials said that there was serious consideration given to prosecuting Seymour M. Hersh, a reporter for The Times, but they said the idea was eventually dropped.

"It was an altogether different climate at the time in which the idea of prosecuting a reporter was just impossible," recalled James R. Schlesinger, who served as the Director of Central Intelligence from 1973 to 1975 and was later Secretary of Defense. "You had the C.I.A.'s alleged involvement in Watergate. The C.I.A.'s reputation on Capitol Hill was mixed and the people in the White House just didn't want to get President Ford involved in prosecution of a reporter."

In 1971, the Nixon Administration sought to prevent The New York Times and The Washington Post from publishing excerpts from secret documents on the origins of United States involvement in the Vietnam War. The Supreme Court ruled 6 to 3 that the Government had failed to meet its "heavy burden" needed to justify prior restraint.

Under President Carter, the Justice Department was successful in winning prior restraint of an article prepared for The Progressive magazine that gave technical details on how a hydrogen bomb operates.